IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 451 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE KSHITIJ R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

KESHAV SAJANBHAI HARIJAN

Appearance:

1. Criminal Appeal No. 451 of 1993

MRS.HARSHA DEVANI,APP for Appellant No.

MS SADHANA SAGAR for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE KSHITIJ R.VYAS

Date of decision: 05/08/2004

ORAL JUDGEMENT

1. The State of Gujarat has filed the present appeal for enhancement of sentence imposed by the learned Judicial Magistrate, First Class, Dhoraji in Criminal

Case No. 101 of 1993 dated 5.2.1993. The respondents who were facing trial for offence punishable under section 11(1)(d) of the Prevention of Cruelty to Animals Act, 1960 (hereinafter referred to as 'the Act'), pleaded guilty to the charge. The learned Magistrate, after recording the same, imposed a sentence directing each of the respondents to pay a fine of Rs. 25/-, in all Rs. 50/-, in default, to undergo S.I. for two days. The learned Magistrate also directed the State to return 16 oxen to the person from whom possession was taken and directed to keep them in good condition also to return truck no.GTG 653.

2. As per the prosecution case, police found one truck no. GTG 653 fully loaded with 16 oxen. It was stopped and permit was asked for under section 11(d) of the Act. In absence of respondents having shown the same, the possession of oxen as well as truck was taken. The chargesheet was filed before the learned Magistrate.

3. The respondents pleaded guilty to the charge and, therefore, as stated above, fine came to be imposed. Hence this appeal.

4. A mere look at the provisions of the Act makes it clear that any person conveys or carries whether in or upon any vehicles, or not, any animal in such a manner or position as to subject it to unnecessary pain or suffering, he shall be punishable [in the case of a first offence with fine which shall not be less than ten rupees but which may extend to fifty rupees, and in the case of a second or subsequent offence committed within three years of the previous offence, with fine which shall not be less than twenty-five rupees but which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both].

5. In absence of any material on record as to the respondents having committed similar offence in the past, no grievance can be made against the order imposing fine of Rs. 25/- for the first offence. Similarly, as provided under section 29, the Court has power to pass appropriate orders as to the disposal of animals.

6. In view of the above, in my opinion, no illegality is committed by the learned Magistrate. Suffice it to say that nothing has been pointed out warranting any interference.

7. There being no substance in this appeal, it is dismissed.

(Kshitij R.Vyas,J.)

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